

TESTIMONY OF
JAMES W. BALSIGER, PH.D.
ACTING DEPUTY ASSISTANT ADMINISTRATOR

NATIONAL MARINE FISHERIES SERVICE
U.S. DEPARTMENT OF COMMERCE

ON REAUTHORIZATION OF FIVE FISHERIES LAWS

SUBCOMMITTEE ON FISHERIES AND OCEANS
COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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Mr. Chairman and Members of the Subcommittee, thank you for inviting me to share our views on H.R. 4686, the Multi-State and International Fisheries Conservation and Management Act of 2006, which would reauthorize the following statutes: The Anadromous Fish Conservation Act of 1965; the Interjurisdictional Fisheries Act of 1986; the Dungeness Crab Fisheries Management Act of 1996; the Northwest Atlantic Fisheries Convention Act of 1995; and the Atlantic Tunas Convention Act of 1975. I am James W. Balsiger, the Acting Deputy Assistant Administrator for the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) within the Department of Commerce (Department).

Anadromous Fish Conservation Act of 1965

The Anadromous Fish Conservation Act of 1965 (AFCA) authorizes the Secretary of Commerce and the Secretary of the Interior to enter into cooperative agreements with states and other non-federal interests for the conservation, development, and enhancement of the anadromous fishery resources of the nation, including those in the Great Lakes and Lake Champlain. Programs administered under the AFCA have served as a source of funding for the states, providing resources to conserve and manage anadromous fisheries, such as salmon, striped bass, sturgeon, shad, and river herring, which are born in freshwater, migrate to the ocean to grow into adults, and then return to freshwater streams and rivers to spawn. Anadromous species require focused attention from management because of the many challenges they face in marine and inland environments, and several anadromous species are in need of recovery. This recovery will provide economic benefits to the American public and ecological benefits to the rivers that host these species. Information collected by AFCA-funded programs supports management decisions at the state, interstate, and federal levels, fulfilling some of our management obligations under the Atlantic Coastal Fisheries Cooperative Management Act, the Endangered Species Act, and the Magnuson-Stevens Fishery Conservation and Management Act.

State fisheries agencies, colleges, universities, private companies, and other non-federal interests in 31 states bordering the oceans or the Great Lakes may participate under this Act. All projects must be coordinated with, and cleared through, the state fisheries management agency of the state in which the project takes place. The total amount of funds provided in any fiscal year to any one state may not exceed \$625,000. Funding in recent years for the program has been about \$2.0 million a year. With the exception of rescissions, Congress funded this program at the President's Budget level in FY06. Additionally, the President's FY07 request is consistent with the FY06 enacted level. At this time, the Department does not propose any changes to the Act.

Interjurisdictional Fisheries Act of 1986

The Interjurisdictional Fisheries Act of 1986 (IFA) is a financial assistance program promoting state activities which support the management of interjurisdictional fisheries resources throughout their range. The Act outlines a process through which any state may, either directly or through an interstate marine fisheries commission, receive funds to support management of multi-jurisdictional fishery resources. These are fisheries that: (1) are in waters under the jurisdiction of one or more states and in the Exclusive Economic Zone (EEZ); (2) are managed under an interstate fishery management plan; or (3) include species that migrate between the waters under the jurisdiction of two or more states bordering on the Great Lakes. Funds under IFA are apportioned to the states based on a formula that utilizes data on the volume and value of fish landed in each state by domestic commercial fishermen.

The states' and commissions' many projects under the IFA respond to fishery research, habitat, and law enforcement needs under the Magnuson-Stevens Act, Atlantic Coastal Fisheries Cooperative Management Act, Great Lakes Fisheries Commission's Joint Strategic Plan, and a variety of multi-jurisdictional fisheries management planning programs. Many of the projects funded are long term research and data collection activities providing a stable base of information for

many of the interstate and federal fishery management programs carried out in U.S. waters.

The Act also authorizes the Secretary of Commerce to provide assistance to address fishery resource disasters. Section 308 (b) authorizes the Secretary of Commerce to provide grants or cooperative agreements to states determined to have been affected by a commercial fishery failure or serious disruption affecting future production due to a fishery resource disaster. The federal cost share for assistance is limited to 75 percent.

Section 308(d) allows the Secretary of Commerce to provide assistance to commercial fishermen, either directly or indirectly, through state or local government agencies and nonprofit organizations, to alleviate harm caused by a fishery resource disaster from hurricanes or any other natural disasters. Cost sharing is not required, but assistance programs require notice in the Federal Register and the opportunity for public comment.

IFA also supports the development of fishery management plans by the three interstate marine fisheries commissions. The Atlantic, Gulf, and Pacific States Marine Fisheries Commissions develop fishery management plans and research priorities for coastal and interjurisdictional fish stocks. American lobster and menhaden in the Atlantic, Spanish mackerel and striped mullet in the Gulf, and abalone habitat and invasive species in the Pacific are among the many issues addressed by the interstate commissions and supported by this Act.

Under the IFA, we can increase our understanding of fishery habitats and species life histories, as well as how coastal development pressures and fishing affect the resources. We are also eager to continue the evolution from traditional single species stewardship to managing interjurisdictional fisheries within an ecosystem approach to management.

With the exception of rescissions, Congress funded this program at the President's Budget level in FY06. Additionally, the President's FY07 request is consistent with the FY06 enacted level. The Department supports reauthorization of this Act.

Dungeness Crab Fisheries Management Act

Among the many activities supported by the Interjurisdictional Fisheries Act is a tri-state commission that manages the Dungeness crab fishery in the Pacific Northwest. The authority to manage this fishery in the EEZ was extended to the states of California, Oregon, and Washington, and is known informally as the Dungeness Crab Fisheries Management Act. The tri-state commission is a successful cooperative forum through which the states develop consistent and complementary management regimes for Dungeness crab. An interstate Memorandum of Understanding, first signed in 1980, committed the state management agencies to take mutually supportive crab management actions. Dungeness crab fisheries in California, Oregon, and Washington are managed under a regimen known as "3-S" (i.e., size-sex-season). The minimum commercial harvest size is designed to protect sexually mature crab from harvest so that they can reproduce for one to two years. Only male Dungeness crab are harvested commercially, and season scheduling is designed to provide some measure of protection to crabs during times when mating takes place. Under this management regime, landings of Dungeness crab in the coastal fisheries of California, Oregon, and Washington have maintained a cyclic pattern for nearly 50 seasons.

The President's Budget does not propose and Congress does not appropriate funds for this authorization. The Act provides authority to implement programs. The Department supports reauthorization of this Act.

Northwest Atlantic Fisheries Convention Act of 1995

The Northwest Atlantic Fisheries Convention Act implements the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, which established the Northwest Atlantic Fisheries Organization (NAFO). As with any management regime, there are allocations and conservation and management issues. However, we believe NAFO is a valuable tool.

Effective NAFO conservation and management is particularly important to the United States, given that NAFO has the ability to manage the high seas portions of important domestic fish stocks that straddle the U.S. EEZ. The United States receives small allocations of redfish, squid, and an effort allocation for shrimp. U.S. vessels may also harvest from small allocations that do not have national allocations such as redfish, hake, skate, and yellowtail flounder that are available to all NAFO Parties, on a first-come-first-served basis.

NAFO also provides an opportunity for the United States to implement conservation and management principles we have advocated for in recent international fisheries management agreements. In its leadership roles within NAFO, the United States has pressed for adoption of key elements such as implementation of science-based management; strong monitoring and enforcement; effective dispute settlement; and greater transparency in the decision-making processes

of NAFO. Additionally, we have consistently supported strengthened conservation and management for regulated and unregulated NAFO stocks, timely stock assessments, gathering of data, and effective bycatch provisions. Although much remains to be done, U.S. efforts have increased the effectiveness of NAFO.

In an effort to continue to improve itself, NAFO has created a working group to consider ways to reform and modernize NAFO. The terms of reference of this group are to: 1) evaluate and recommend changes to the NAFO Convention, with a view to reform the NAFO decision-making process; 2) examine the current structure and operations of NAFO, with a view to streamlining; and 3) provide other relevant recommendations with regard to the NAFO Convention. This group will meet April 2006, and will provide recommendations to the September 2006 NAFO Annual Meeting. The working group may also meet in 2007 if necessary. In addition, the NAFO Fisheries Commission's Standing Committee on International Control will review the effectiveness of the existing NAFO monitoring, control, and surveillance regime and provide recommendations for improvement at the 2006 annual meeting.

We consider NAFO to be a valuable forum in which to further U.S. goals for international fisheries management. During the upcoming meetings on reform of NAFO, we will continue to vigorously pursue not only broad international fisheries conservation and management goals, but also look for new opportunities for the United

The President's Budget does not propose and Congress does not appropriate funds for this authorization. The Act provides authority to implement programs. The Department supports reauthorization of this Act.

Atlantic Tunas Convention Act of 1975 The Atlantic Tunas Convention Act (ATCA) governs U.S. participation on the International Commission for the Conservation of Atlantic Tunas (ICCAT) and stipulates how the Secretary of Commerce shall administer international conservation and management programs adopted by the Commission. Funds for implementation of ATCA are used in part to support an ICCAT Advisory Committee, the regulatory activities of NMFS' Highly Migratory Species Management Division, permitting and reporting, and research activities conducted in several external laboratories and academic institutions. The President's Budget does not propose and Congress does not appropriate funds for this authorization. The Act provides authority to implement programs. Several of the Act's provisions are now obsolete and serve as a testament to the progress that has been made in the arena of international tuna management over the last thirty years. For example, ATCA authorizes the United States to identify and consult with nations whose vessels are fishing within the Convention area in a manner that diminishes the effectiveness of ICCAT conservation recommendations. These provisions duplicate the multilateral process adopted in November 2003 under the "Resolution by ICCAT Concerning Trade Measures," and we recommend removing them from the Act. Additionally, ATCA stipulates procedures to promulgate regulations. In the specific case of trade restrictive measures adopted by the Commission, the process is lengthy and may result in the U.S. being out of synchronization with other ICCAT contracting parties. The multilateral process of identification and consultation adopted by ICCAT as a prelude to recommending trade restrictive measures provides ample opportunity for the Secretary of Commerce to engage the affected parties regarding import restrictions and we recommend expedited rulemaking. Finally, ATCA requires the submission of an extensive annual report. The contents and structure of this report duplicate other publicly available reports, including the annual U.S. National Report to ICCAT and the Secretary's annual Stock Assessment and Fishery Evaluation for Atlantic Highly Migratory Species. The Department recommends that the reporting requirement in ATCA be discontinued. The Department requests that the authorization levels be consistent with the President's FY07 Budget Request.

Conclusion

All of these Acts are important tools for NOAA to manage sustainable fisheries. I look forward to working with the Committee on the reauthorization of these Acts. If changes are deemed necessary, we would be pleased to provide technical drafting assistance where appropriate. Thank you for this opportunity to discuss these important issues. Mr. Chairman, this concludes my testimony. I am pleased to respond to any questions at this time.